



## **DEPARTMENT OF HOMELAND SECURITY**

### **U.S. Immigration and Customs Enforcement**

**[Docket No. ICEB-2022-0006]**

**RIN 1653-ZA26**

#### **Employment Authorization for Ukrainian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Ongoing Armed Conflict in Ukraine**

**AGENCY:** U.S. Immigration and Customs Enforcement, Department of Homeland Security.

**ACTION:** Notice.

**SUMMARY:** This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Ukraine, regardless of country of birth (or individuals having no nationality who last habitually resided in Ukraine), and who are experiencing severe economic hardship as a direct result of the ongoing armed conflict in Ukraine. The Secretary is taking action to provide relief to these Ukrainian students who are lawful F-1 nonimmigrant students, so the students may request employment authorization, work an increased number of hours while the school is in session and reduce their course load while continuing to maintain their F-1 nonimmigrant student status. The Department of Homeland Security (DHS) will deem an F-1 nonimmigrant student who receives employment authorization by means of this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

**DATES:** This F-1 notice is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, through October 19, 2023.

**FOR FURTHER INFORMATION CONTACT:** Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC 20536-5600; e-mail: [sevp@ice.dhs.gov](mailto:sevp@ice.dhs.gov), telephone: (703) 603-3400. This is not a toll-free number. Program information can be found at <https://www.ice.gov/sevis/>.

**SUPPLEMENTARY INFORMATION:**

**What action is DHS taking under this notice?**

The Secretary is exercising authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F-1 nonimmigrant students whose country of citizenship is Ukraine, regardless of country of birth (or individuals having no nationality who last habitually resided in Ukraine), who are present in the United States in lawful F-1 nonimmigrant student status on the date of publication of this notice, and who are experiencing severe economic hardship as a direct result of the ongoing armed conflict in Ukraine. Effective with this publication, suspension of the employment limitations is available through October 19, 2023, for those who are in lawful F-1 nonimmigrant status. DHS will deem an F-1 nonimmigrant student granted employment authorization through this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice.<sup>1</sup> *See* 8 CFR 214.2(f)(6)(i)(F).

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<sup>1</sup> Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of October 19, 2023, provided the student satisfies the minimum course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to U.S. Immigration and Customs Enforcement (ICE) Coronavirus Disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Mar. 4, 2022).

**Who is covered by this notice?**

This notice applies exclusively to F-1 nonimmigrant students who meet all of the following conditions:

- (1) Are a citizen of Ukraine regardless of country of birth (or an individual having no nationality who last habitually resided in Ukraine);
- (2) Were lawfully present in the United States in F-1 nonimmigrant status under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i), on the date of publication of this notice;
- (3) Are enrolled in an academic institution that is Student and Exchange Visitor Program (SEVP) certified for enrollment for F-1 nonimmigrant students;
- (4) Are maintaining F-1 nonimmigrant status; and
- (5) Are experiencing severe economic hardship as a direct result of the ongoing armed conflict in Ukraine.

This notice applies to F-1 nonimmigrant students in an approved private school in kindergarten through grade 12, public school in grades 9 through 12, and undergraduate and graduate education. An F-1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice.

**Why is DHS taking this action?**

DHS has reviewed country conditions in Ukraine. Based on this review, and in consultation with the Department of State (DOS), the Secretary has determined that an 18-month designation is warranted due to ongoing armed conflict and emergent circumstances described below.

**Overview**

On February 24, 2022, Russia massively expanded its unprovoked military invasion of Ukraine, marking the largest conventional military action in Europe since

World War II.<sup>2</sup> Millions of Ukrainian nationals and other residents of Ukraine have fled the country with millions more displaced internally as Russian forces have continued to engage in significant, sustained bombardment of major cities across the country, including attacks on Ukraine's capital, Kyiv.<sup>3</sup> This ongoing armed conflict poses a serious threat to the personal safety of nationals returning to Ukraine. Emergent circumstances, including destroyed infrastructure, scarce resources, and lack of access to healthcare, prevent Ukrainian nationals from returning to their homeland in safety.

### **Ongoing Armed Conflict and Human Rights Abuses**

Russia's further military invasion of Ukraine has placed civilians at significant risk of physical harm throughout the country.<sup>4</sup> Aerial bombardment in and around major cities have been reported as Russian forces continue to target critical infrastructure.<sup>5</sup> In the city of Mariupol, Russian forces reportedly have shelled the city, killing civilians with strikes on homes, schools, hospitals and shelters, while blocking routes for humanitarian aid and civilian evacuation.<sup>6</sup>

The scale of attacks harming infrastructure has dramatically increased, resulting in numerous civilian casualties.<sup>7</sup> The Prosecutor of the International Criminal Court in

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<sup>2</sup> "Russia invades Ukraine on multiple fronts in 'brutal act of war'," *PBS*, Feb. 24, 2022, available at: <https://www.pbs.org/newshour/world/russia-invades-ukraine-on-multiple-fronts-in-brutal-act-of-war> (last visited Mar. 1, 2022); Natalia Zinets and Aleksandar Vasovic, "Missiles rain down around Ukraine," *Reuters*, Feb. 24, 2022, available at: <https://www.reuters.com/world/europe/putin-orders-military-operations-ukraine-demands-kyiv-forces-surrender-2022-02-24/> (last visited Mar. 1, 2022).

<sup>3</sup> Ukraine: Humanitarian Impact Situation Report No. 1, United Nations Office for the Coordination of Humanitarian Affairs, Feb. 26, 2022, available at: <https://reliefweb.int/report/ukraine/ukraine-humanitarian-impact-situation-report-no-1-500-pm-26-february-2022> (last visited Mar. 1, 2022).

<sup>4</sup> *Press briefing notes on Ukraine*, United Nations Office of the High Commissioner Human Rights, Mar. 1, 2022, available at: <https://www.reuters.com/world/europe/putins-nuclear-move-could-make-situation-much-much-more-dangerous-us-official-2022-02-27/> (last visited Mar. 1, 2022).

<sup>5</sup> "Russia's invasion of Ukraine in maps — latest updates", *Financial Times*, Mar. 1, 2022, available at: <https://www.ft.com/content/4351d5b0-0888-4b47-9368-6bc4dfbccbf5> (last visited Mar. 1, 2022).

<sup>6</sup> "What is happening in Mariupol, the Ukrainian city under Russian siege?" *The Washington Post*, Mar. 21, 2022, available at: <https://www.washingtonpost.com/world/2022/03/21/ukraine-mariupol-seige-russia-faq/> (last visited Mar. 25, 2022).

<sup>7</sup> *Russian Offensive Campaign Assessment*, The Institute for the study of War, p. 1 & p. 5, Feb. 28, 2022, available at: [https://www.understandingwar.org/sites/default/files/Russian%20Operations%20Assessments%20Feb28\\_1.pdf](https://www.understandingwar.org/sites/default/files/Russian%20Operations%20Assessments%20Feb28_1.pdf) (last visited Mar. 1, 2022); "Ukraine conflict: Russia bombs Kharkiv's Freedom Square and opera house", *BBC*, Mar. 1, 2022, available at: <https://www.bbc.com/news/world-europe-60567162> (last visited Mar. 1, 2022).

The Hague stated that there is a reasonable basis to believe that both alleged war crimes and crimes against humanity have been committed in Ukraine during the past eight years, so his Office will “proceed with opening an investigation into the Situation in Ukraine” from 21 November 2013 onwards, thereby encompassing within its scope any past and present allegations of war crimes, crimes against humanity or genocide committed on any part of the territory of Ukraine . . .<sup>8</sup> Based on information currently available, the U.S. government has assessed that members of Russian forces have committed war crimes in Ukraine.<sup>9</sup>

### **Humanitarian Situation**

The war against Ukraine continues to result in civilian deaths and generate further population displacement, damage civilian infrastructure, and exacerbate humanitarian needs across the country<sup>10</sup>. As of March 31, 2022 the Office of the United Nations High Commissioner for Human Rights recorded 3,167 civilian casualties in the country: 1,232 killed and 1,935 injured; caused by the use of explosive weapons, shelling from heavy artillery and multiple launch rocket systems, and missile and air strikes.<sup>11</sup>

#### *Destruction of Infrastructure and Scarce Resources*

Since February 24, significant infrastructural damage in Ukraine from Russian air strikes has “left hundreds of thousands of people without electricity or water, while

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<sup>8</sup> *Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: ‘I have decided to proceed with opening an investigation.’*, International Criminal Court, Feb. 28, 2022, available at: <https://www.icc-cpi.int/Pages/item.aspx?name=20220228-prosecutor-statement-ukraine> (last visited Mar. 1, 2022); *Statement of ICC Prosecutor, Karim A.A. Khan QC, on the Situation in Ukraine: Receipt of Referrals from 39 States Parties and the Opening of an Investigation*, Mar. 2, 2022, available at <https://www.icc-cpi.int/Pages/item.aspx?name=2022-prosecutor-statement-referrals-ukraine> (last visited Apr. 4, 2022).

<sup>9</sup> *War Crimes by Russia’s Forces in Ukraine, Press Statement*, U.S. Secretary of State Antony J. Blinken, Mar. 23, 2022, available at: <https://www.icc-cpi.int/Pages/item.aspx?name=2022-prosecutor-statement-referrals-ukraine>. (last visited April 1, 2022).

<sup>10</sup> *Ukraine – Complex Emergency*, U.S. Agency for International Development, Mar. 25, 2022, available at: [https://www.usaid.gov/sites/default/files/documents/2022-03-25\\_USG\\_Ukraine\\_Complex\\_Emergency\\_Fact\\_Sheet\\_8.pdf](https://www.usaid.gov/sites/default/files/documents/2022-03-25_USG_Ukraine_Complex_Emergency_Fact_Sheet_8.pdf).

<sup>11</sup> *Ukraine: civilian casualty update 31 March 2022*, United Nations Human Rights Office of the High Commissioner, Mar. 31, 2022, available at: <https://www.ohchr.org/en/press-releases/2022/03/ukraine-civilian-casualty-update-31-march-2022>.

bridges and roads damaged by shelling have left communities cut off from markets for food and other basic supplies.”<sup>12</sup> Amid air raid sirens, civilians have sought safety underground in subway stations, basements, and bunkers.<sup>13</sup> Food security has been an ongoing concern in Ukraine with 1.1 million Ukrainians in need of food assistance – more than a third of these being severely and moderately food insecure.<sup>14</sup> The impact on women has been more pronounced and “all available data show that female-headed households are an estimated 1.3 times more often experiencing food insecurity, compared to the overall population.”<sup>15</sup> Prior to Russia’s February 24 expansion of the invasion, in February 2022, UNOCHA estimated that 2.5 million Ukrainians were in need of water, sanitation and hygiene assistance.<sup>16</sup> Those without access to alternative water sources have been most heavily impacted.<sup>17</sup>

#### *Lack of Access to Healthcare*

Shortly after Russia began this offensive in 2022, UNOCHA reported that in Ukraine, the “most pressing humanitarian needs are emergency medical services, critical medicines, health supplies and equipment, safe water for drinking and hygiene, and shelter and protection for those displaced from their home.”<sup>18</sup> Ukraine’s health care

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<sup>12</sup> *Ukraine: Humanitarian Impact, Situation Report No. 01*, OCHA Ukraine, Feb. 26, 2022, available at: <https://reliefweb.int/report/ukraine/ukraine-humanitarian-impact-situation-report-no-1-500-pm-26-february-2022> (last visited Mar. 1, 2022).

<sup>13</sup> “Fear, darkness and newborn babies: inside Ukraine’s underground shelters”, *The Guardian*, Feb. 26, 2022, available at: <https://www.theguardian.com/world/2022/feb/26/fear-darkness-and-newborn-babies-inside-ukraine-underground-shelters> (last visited Mar. 1, 2022).

<sup>14</sup> *2022 Humanitarian Needs Overview – Ukraine*, UNOCHA, p. 79, Feb. 11, 2022, available at: [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine\\_2022\\_hno\\_eng\\_2022-02-11.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine_2022_hno_eng_2022-02-11.pdf) (last visited Mar. 1, 2022).

<sup>15</sup> *Id.* p. 51.

<sup>16</sup> *Id.* p. 73.

<sup>17</sup> *Id.* p. 39.

<sup>18</sup> *Ukraine: Humanitarian Impact, Situation Report No. 01*, OCHA Ukraine, Feb. 26, 2022, available at: <https://reliefweb.int/report/ukraine/ukraine-humanitarian-impact-situation-report-no-1-500-pm-26-february-2022> (last visited Mar. 1, 2022).

system already had major deficiencies including shortages of medications and supplies, poor infrastructure, and understaffing.<sup>19</sup>

Challenges within Ukraine's health care system have been exacerbated by the massive expansion of armed conflict amidst a pandemic.<sup>20</sup> Strikes hitting medical facilities have resulted in injuries and deaths, including among health care workers, and have resulted in critical shortages of medical supplies in some areas.<sup>21</sup> Kyiv city authorities reported over 80 babies were born in bomb shelters in the first two nights.<sup>22</sup> The COVID-19 pandemic already put significant strain on Ukraine's health care system by stretching its limited capacity.<sup>23</sup> Since January 3, 2020, there have been over 5 million confirmed cases of COVID-19 with 107,957 deaths the number of deaths topping 100,000.<sup>24</sup> Hospitals have struggled with the volume of COVID cases and Ukraine has one of the lowest vaccination rates in Europe.<sup>25</sup>

### *Displacement*

Prior to Russia's full-scale military invasion into Ukraine on February 24, 2022, a large number of Ukrainian citizens had already been internally displaced by the Russia-backed conflict in the Donbas and Russia's occupation of Crimea since 2014.<sup>26</sup> As of

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<sup>19</sup> *Exploring Access to health care services in Ukraine: a protection and health perspective*, Protection Cluster Ukraine/Health Cluster Ukraine, Jul. 2019, available at:

[https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/2019/07/2019-07-Exploring-access-to-health-care-services-in-Ukraine\\_ENG.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/2019/07/2019-07-Exploring-access-to-health-care-services-in-Ukraine_ENG.pdf) (last visited Mar. 1, 2022).

<sup>20</sup> *Impact of Health Reform on the Primary Healthcare Level in Conflict-Affected Areas of Donetsk and Luhansk Oblasts*, Médicos del Mundo, June 2021, available at: <https://reliefweb.int/report/ukraine/impact-healthcare-reform-primary-healthcare-level-conflict-affected-areas-donetsk-and> (last visited Mar. 1, 2022).

<sup>21</sup> *Emergency in Ukraine: External Situation Report #3*, World Health Organization, Mar. 17, 2022, available at: <https://www.who.int/publications/i/item/WHO-EURO-2022-5152-44915-63936> (last visited Mar. 25, 2022).

<sup>22</sup> "Fear, darkness and newborn babies: inside Ukraine's underground shelters", *The Guardian*, Feb. 26, 2022, available at: <https://www.theguardian.com/world/2022/feb/26/fear-darkness-and-newborn-babies-inside-ukraine-underground-shelters> (last visited Mar. 1, 2022).

<sup>23</sup> "We are devoted to this work because the health and lives of people are at stake", United Nations Office of the High Commissioner Human Rights, Aug. 16, 2022, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/Ukraine-and-COVID-19.aspx> (last visited Apr. 1, 2022).

<sup>24</sup> *WHO Health Emergency Dashboard, WHO (COVID-19) Homepage - Ukraine*, WHO, available at: <https://covid19.who.int/region/euro/country/ua> (last visited Apr. 1, 2022).

<sup>25</sup> *WHO Health Emergency Dashboard, WHO (COVID-19) Homepage - Ukraine*, WHO, available at: <https://covid19.who.int/region/euro/country/ua> (last visited Apr. 1, 2022).

<sup>26</sup> 2022 Humanitarian Needs Overview – Ukraine, UNOCHA, p. 34, Feb. 11, 2022, available at: [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine\\_2022\\_hno\\_eng\\_2022-02-11.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine_2022_hno_eng_2022-02-11.pdf) (last visited Apr. 1, 2022).

March 5, 2021, well before the onset of the 2022 invasion by Russia, the Ukrainian Ministry of Social Policy had already registered 1,461,770 individuals as internally displaced persons (IDPs).<sup>27</sup> Among these nearly 1.5 million IDPs, 195,320 were children, 724,786 were elderly and 51,478 were persons with disabilities.<sup>28</sup> Moreover, life in Ukraine for many IDPs was dire with an estimated 300,000 IDPs having been identified as in need of livelihood assistance and food assistance for the year 2022, even before the onset of the February 2022 Russian invasion.<sup>29</sup>

The newly intensified and widespread conflict has caused more than four million people to exit Ukraine for Poland, Hungary, Slovakia, Romania, Moldova, and beyond.<sup>30</sup> The United Nations notes that women and girls face higher risks of human rights violations and sexual exploitation and abuse, including transactional sex, survival sex and conflict-related sexual violence.<sup>31</sup>

As of February 28, 2022, approximately 2,604 F-1 nonimmigrant students from Ukraine (or individuals having no nationality who last habitually resided in Ukraine) are in the United States and enrolled at SEVP-certified U.S. academic institutions. Given the extent of the ongoing war in Ukraine, affected students whose primary means of financial support comes from Ukraine may need to be exempt from the normal student employment requirements to continue their studies in the United States. The ongoing armed conflict has made it unfeasible for many students to safely return to Ukraine for

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<sup>27</sup> *2022 Humanitarian Needs Overview – Ukraine*, UNOCHA, p. 34, Feb. 11, 2022, available at: [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine\\_2022\\_hno\\_eng\\_2022-02-11.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine_2022_hno_eng_2022-02-11.pdf) (last visited Apr. 1, 2022).

<sup>28</sup> *Registration of Internal Displacement*, UNHCR, Apr. 1, 2021, available at: <https://app.powerbi.com/view?r=eyJrIjojY2RhMmExMjgtZWRIIMS00YjcwLWI0MzktNmEwNDkwYzdmYTM0IiwidCI6ImU1YzM3OTgxLTkyMjNjQmNDEzNC04YTJTY1NDNkMmFmODBiZSIsImMiOj9> (last visited Mar. 1, 2022).

<sup>29</sup> *2022 Humanitarian Needs Overview – Ukraine*, UNOCHA, p. 34, Feb. 11, 2022, available at: [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine\\_2022\\_hno\\_eng\\_2022-02-11.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/ukraine_2022_hno_eng_2022-02-11.pdf) (last visited Mar. 1, 2022).

<sup>30</sup> *Operational Data Portal*, UNHCR, Mar. 6, 2022, available at: <https://data2.unhcr.org/en/situations/ukraine> (last visited Mar. 31, 2022).

<sup>31</sup> *Rapid Gender Analysis of Ukraine: Secondary data review*, UNHCR, Mar. 29, 2022, <https://data2.unhcr.org/en/documents/details/91723> (last visited Apr. 4, 2022)



the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses.

**What is the minimum course load requirement to maintain valid F-1 nonimmigrant status under this notice?**

Undergraduate F-1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term.<sup>32</sup> A graduate-level F-1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v).

In addition, an F-1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education towards satisfying this minimum course load requirement, unless the course of study is in an English language study program.<sup>33</sup> *See* 8 CFR 214.2(f)(6)(i)(G). An F-1 nonimmigrant student attending an approved private school in kindergarten through grade 12 or public school in grades 9 through 12 must maintain “class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation,” as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

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<sup>32</sup> Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B).

<sup>33</sup> DHS considers students who are compliant with ICE Coronavirus Disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such COVID-19 guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, <https://www.ice.gov/coronavirus> (last visited Mar. 4, 2022).

**May an eligible F-1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?**

Yes. An F-1 nonimmigrant student who is a Ukrainian citizen, regardless of country of birth (or an individual having no nationality who last habitually resided in Ukraine), who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i)(A) and (B) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F-1 nonimmigrant student may benefit without having to apply for a new Form I-766, Employment Authorization Document (EAD). To benefit from this notice, the F-1 nonimmigrant student must request that the designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record, which the student's Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status, will reflect:

Approved for more than 20 hours per week of [DSO must insert "on-campus" or "off-campus," depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently authorized for off-campus employment), or the end date of this notice, whichever date comes first].

**Must the F-1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her “full course of study”?**

No. DHS will deem an F-1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a “full course of study”<sup>34</sup> for the duration of the student’s employment authorization, provided that a qualifying undergraduate level F-1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F-1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term.<sup>35</sup> See 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F-1 nonimmigrant status.

**Will an F-2 dependent (spouse or minor child) of an F-1 nonimmigrant student covered by this notice be eligible to apply for employment authorization?**

No. An F-2 spouse or minor child of an F-1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F-2 nonimmigrant status, as required under 8 CFR 214.2(f)(15)(i).

**Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F-1 visa and makes an initial entry into the United States after the effective date of this notice in the Federal Register?**

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<sup>34</sup> See 8 CFR 214.2(f)(6).

<sup>35</sup> Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” See 8 CFR 214.2(f)(6)(i)(B).

No. The suspension of the applicability of the standard regulatory requirements only applies to certain F-1 nonimmigrant students who meet the following conditions:

(1) Are citizens of Ukraine, regardless of country of birth (or individuals having no nationality who last habitually resided in Ukraine);

(2) Were lawfully present in the United States in F-1 nonimmigrant status, under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i) on the date of publication of this notice;

(3) Are enrolled in an academic institution that is SEVP-certified for enrollment of F-1 nonimmigrant students;

(4) Are maintaining F-1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the ongoing armed conflict in Ukraine.

An F-1 nonimmigrant student who does not meet all these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the ongoing armed conflict in Ukraine).

**Does this notice apply to a continuing F-1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register and who needs to obtain a new F-1 visa before returning to the United States to continue an educational program?**

Yes. This notice applies to such an F-1 nonimmigrant student, but only if the DSO has properly endorsed the student's SEVIS record, which will then appear on the student's Form I-20. The normal rules for visa issuance remain applicable to a nonimmigrant who needs to apply for a new F-1 visa in order to continue their educational program in the United States.

**Does this notice apply to elementary school, middle school, and high school students in F-1 status?**

Yes. However, this notice does not by itself reduce the required course load for F-1 nonimmigrant students from Ukraine enrolled in private kindergarten through grade 12, or public high school grades 9 through 12. Such students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress towards graduation, as required under 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F-1 nonimmigrant students regardless of educational level. Eligible F-1 nonimmigrant students covered by this notice who are enrolled in an elementary school, middle school, or high school may benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session. Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

***On-Campus Employment Authorization***

**Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?**

Yes. For an F-1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F-1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible F-1 nonimmigrant student has authorization to work more than 20 hours per week while school is in session if the DSO has entered the following statement in the remarks field of the SEVIS student record, which will be reflected on the student's Form I-20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].

To obtain on-campus employment authorization, the F-1 nonimmigrant student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the ongoing armed conflict in Ukraine. An F-1 nonimmigrant student authorized by the student's DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time employment on-campus when school is not in session or during school vacations apply, as required under 8 CFR 214.2(f)(9)(i).

**Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain their F-1 nonimmigrant status?**

Yes. DHS will deem an F-1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a "full course of study"<sup>36</sup> for the purpose of maintaining their F-1 nonimmigrant student status for the duration of the on-campus employment if the student satisfies the minimum course load requirement described in this notice, as required under 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if the reduction

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<sup>36</sup> See 8 CFR 214.2(f)(6).

would not meet the school's minimum course load requirement for continued enrollment.<sup>37</sup>

### ***Off-Campus Employment Authorization***

#### **What regulatory requirements does this notice temporarily suspend relating to off-campus employment?**

For an F-1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

- (a) The requirement that a student must have been in F-1 nonimmigrant status for one full academic year in order to be eligible for off-campus employment;
- (b) The requirement that an F-1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;
- (c) The requirement that limits an F-1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while school is in session; and
- (d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

#### **Will an F-1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F-1 nonimmigrant status?**

Yes. DHS will deem an F-1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a "full course of

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<sup>37</sup> Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

study”<sup>38</sup> for the purpose of maintaining F-1 nonimmigrant student status for the duration of the student’s employment authorization if the student satisfies the minimum course load requirement described in this notice, as required under 8 CFR 214.2(f)(6)(i)(F). However, the authorization for reduced course load is solely for DHS purposes of determining valid F-1 nonimmigrant status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school’s minimum course load requirement.<sup>39</sup>

**How may an eligible F-1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?**

An F-1 nonimmigrant student must file a Form I-765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the ongoing armed conflict in Ukraine. Filing instructions are located at: <https://www.uscis.gov/i-765>.

*Fee considerations.* Submission of a Form I-765 currently requires payment of a \$410 fee. An applicant who is unable to pay the fee may submit a completed Form I-912, Request for Fee Waiver, along with the Form I-765, Application for Employment Authorization. *See* [www.uscis.gov/feewaiver](https://www.uscis.gov/feewaiver). The submission must include an explanation about why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c).

*Supporting documentation.* An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to the DSO:

- (1) This employment is necessary to avoid severe economic hardship; and

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<sup>38</sup> *See* 8 CFR 214.2(f)(6).

<sup>39</sup> Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, Web site, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.



(2) The hardship is a direct result of the ongoing armed conflict in Ukraine.

If the DSO agrees that the F-1 nonimmigrant student should receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on the student's Form I-20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I-766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].

The F-1 nonimmigrant student must then file the properly endorsed Form I-20 and Form I-765, according to the instructions for the Form I-765. The F-1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

*DSO recommendation.* In making a recommendation that a F-1 nonimmigrant student be approved for Special Student Relief, the DSO certifies that:

(a) The F-1 nonimmigrant student is in good academic standing and is carrying a "full course of study"<sup>40</sup> at the time of the request for employment authorization;

(b) The F-1 nonimmigrant student is a citizen of Ukraine, regardless of country of birth (or an individual having no nationality who last habitually resided in Ukraine), and is experiencing severe economic hardship as a direct result of the ongoing armed conflict in Ukraine, as documented on the Form I-20;

(c) The F-1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of 8 CFR 214.2(f)(5)(v) and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three

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<sup>40</sup> See 8 CFR 214.2(f)(6).

semester or quarter hours of instruction per academic term if the student is at the graduate level; and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the ongoing armed conflict in Ukraine.

*Processing.* To facilitate prompt adjudication of the student's application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F-1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes all of the following documents:

(1) A completed Form I-765;

(2) The required fee or properly documented fee waiver request, as defined in 8 CFR 103.7(c); and

(3) A signed and dated copy of the student's Form I-20 with the appropriate DSO recommendation, as previously described in this notice; and

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase "SPECIAL STUDENT RELIEF."

Failure to include this notation may result in significant processing delays.

If USCIS approves the student's Form I-765, USCIS will send the student a Form I-766 EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

## *Temporary Protected Status Considerations*

### **Can an F-1 nonimmigrant student apply for temporary protected status (TPS) and for benefits under this notice at the same time?**

Yes. An F-1 nonimmigrant student who has not yet applied for TPS or other relief that reduces the student's course load per term and permits an increased number of work hours per week, such as Special Student Relief,<sup>41</sup> under this notice has two options.

Under the first option, the nonimmigrant student may file the TPS application according to the instructions in the USCIS notice announcing the designation of Ukraine for TPS published elsewhere in this issue of the **Federal Register**. All TPS applicants must file a Form I-821, Application for Temporary Protected Status with the appropriate fee (or request a fee waiver). Although not required to do so, if F-1 nonimmigrant students want to obtain a new EAD based on their TPS application that is valid through October 19, 2023, and to be eligible for automatic EAD extensions that may be available to EADs with an A-12 or C-19 category code, they must file Form I-765 and pay the Form I-765 fee (or submit a Request for Fee Waiver (Form I-912)). After receiving the TPS-related EAD, an F-1 nonimmigrant student may request that the student's DSO make the required entry in SEVIS, issue an updated Form I-20, as described in this notice, and notate that the nonimmigrant student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD. So long as the nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate the student's nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains the student's TPS, then the student maintains F-1 nonimmigrant status and TPS concurrently.

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<sup>41</sup> See DHS Study in the States, Special Student Relief, <https://studyinthestates.dhs.gov/students/special-student-relief> (last visited Mar. 4, 2022).

Under the second option, the nonimmigrant student may apply for an EAD under Special Student Relief by filing the Form I-765 with the location specified in the filing instructions. At the same time, the F-1 nonimmigrant student may file a separate TPS application but must submit the TPS application according to the instructions provided in the Federal Register Notice announcing the designation of Ukraine for TPS. The F-1 nonimmigrant student already has applied for employment authorization under Special Student Relief and may choose not to submit the Form I-765 as part of the TPS application. However, some nonimmigrant students may wish to obtain a TPS EAD in light of certain extensions that may be available to EADs with an A-12 or C-19 category code. The nonimmigrant student should check the appropriate box when filling out Form I-821 to indicate whether a TPS related EAD is being requested. Again, so long as the nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the nonimmigrant will be able to maintain compliance requirements for F-1 nonimmigrant student status while having TPS.

**When a student applies simultaneously for TPS status and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?**

The F-1 nonimmigrant student must maintain normal course load requirements for a "full course of study"<sup>42</sup> unless or until the nonimmigrant student receives employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (e.g., clock hours for language students). Once approved for Special Student Relief employment authorization, the F-1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum

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<sup>42</sup> See 8 CFR 214.2(f)(6).

requirements (with a minimum of six semester or quarter credit hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter credit hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), (f)(6), and (f)(9)(i) and (ii).

**How does a student who has received a TPS-related employment authorization document then apply for authorization to take a reduced course load under this notice?**

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. The F-1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the current crisis in Ukraine. The DSO will then verify and update the student's record in SEVIS to enable the F-1 nonimmigrant student with TPS to reduce the course load without any further action or application. No other EAD needs to be issued for the F-1 nonimmigrant student to have employment authorization.

**Can a noncitizen who has been granted TPS apply for reinstatement of F-1 nonimmigrant student status after the noncitizen's F-1 nonimmigrant student status has lapsed?**

Yes. Current regulations permit certain students who fall out of F-1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision might apply to students who worked on a TPS-related EAD or dropped their course load before publication of this notice, and therefore fell out of student status. These students must satisfy the criteria set forth in the F-1 nonimmigrant student status reinstatement regulations.

**How long will this notice remain in effect?**

This notice grants temporary relief until October 19, 2023<sup>43</sup> to eligible F-1 nonimmigrant students. DHS will continue to monitor the situation in Ukraine. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the Federal Register.

### **Paperwork Reduction Act (PRA)**

An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship resulting from the ongoing armed conflict in Ukraine must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653-0038.

This notice also allows an eligible F-1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

To apply for employment authorization, certain F-1 nonimmigrant students must complete and submit a currently approved Form I-765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I-765, consistent with the PRA (OMB Control No. 1615-0040). Although

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<sup>43</sup> Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," see 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of October 19, 2023, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE Coronavirus Disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. See ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Mar. 4, 2022).

there will be a slight increase in the number of Form I-765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I-765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

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**Alejandro Mayorkas,**

*Secretary,*

*U.S. Department of Homeland Security.*

[FR Doc. 2022-08357 Filed: 4/18/2022 8:45 am; Publication Date: 4/19/2022]